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8 Attorneys for Plaintiffs Sumner D. Bearman,  
9 Individually and on Behalf of All Others  
Similarly Situated

**UNITED STATES DISTRICT COURT**

## **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

SUMNER D. BEARMAN, Individually ) Civil Action No. 08 CV 1115 DMS  
And On Behalf of All Others Similarly ) (WMc)  
Situated. )

Plaintiff, } CLASS ACTION

v. ) **NOTICE OF VOLUNTARY  
DISMISSAL**

BANK OF AMERICA CORPORATION;  
BANC OF AMERICA INVESTMENT  
SERVICES, INC.; and BANC OF  
AMERICA SECURITIES, LLC.

#### Defendants.

22 NOTICE IS HEREBY GIVEN that pursuant to FRCP 41(a)(1), Plaintiffs  
23 voluntarily dismiss the above-captioned action without prejudice. A similar  
24 federal securities action is currently pending in the Northern District of California  
25 entitled *Richard S. Bondar, as Trustee of the Bondar Family Trust Dated 4/1/91*  
26 *v. Bank of America Corporation, et al.*, No. CV-08-2599 (JSW) (the "Northern  
27 District Action"). The plaintiff in the Northern District Action ("Bondar") has  
28 been appointed lead plaintiff in that action. Plaintiffs did not object to Bondar's

## NOTICE OF VOLUNTARY DISMISSAL

08 CV 1115 DMS (WMc)

1 appointment as lead plaintiff, nor did Plaintiffs in a third similar federal securities  
2 action currently pending in the Central District of California, entitled *Hanoch Ben-*  
3 *Tal as Trustee for the Ben-Tal Family Trust and Aric A. Streit and Mary Streit as*  
4 *Trustees for the Benefit of the Streit Living Trust, Individually and on Behalf of*  
5 *All Others Similarly Situated v. Bank of America, et al.*, No. CV 08-4767 MRP  
6 (PLAX). Plaintiffs in *Hanoch Ben-Tal* have served notice of the voluntary  
7 dismissal of that case, on the same bases as the notice herein. We dismiss the  
8 action here in favor of the action moving forward in the Northern District of  
9 California, to the benefit of all class members.

10 Respectfully submitted,

11 RUSHALL & McGEEVER

13 Dated: August 21, 2008

14 /s/ Eileen L. McGeever  
Eileen L. McGeever

15 Eileen L. McGeever  
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9 Individually and on Behalf of All Others  
Similarly Situated

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 SUMNER D. BEARMAN, Individually ) Civil Action No. 08 CV 1115 DMS  
14 And On Behalf of All Others Similarly ) (WMC)  
Situated. )

15 Plaintiff } PROOF OF SERVICE

16 | v

17 BANK OF AMERICA CORPORATION;  
18 BANC OF AMERICA INVESTMENT  
SERVICES, INC.; and BANC OF  
19 AMERICA SECURITIES, LLC.

## Defendants

I, Cheryl A. Knoblock, am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 6100 Innovation Way, Carlsbad, California 92009.

On August 21, 2008, the following document(s):

26 || (1) NOTICE OF VOLUNTARY DISMISSAL

were presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's

## PROOF OF SERVICE

08 CV 01115 DMS (WMc)

1 rules, the Clerk of the Court will send e-mail notification of such filing to the  
2 following persons:

3 David I. Hurwitz  
dhurwitz@omm.com

4 Jeff S. Westerman  
jwesterman@milberg.com

6 I declare under penalty of perjury under the laws of the State of California  
7 that the foregoing is true and correct.

8 Executed on August 21, 2008, at Carlsbad, California.

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12 Cheryl A. Knoblock  
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